IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.2887 OF 1990

Pradeep Shanti Pershad Jain — Petitioner
vs.
The Union of India & ors. — Respondents

Mr.K.R.Bulchandani i/b.M/s.Kamal & Co. for the petitioner.

Mr.R.V.Desai, Senior Advocate with Mr.H.V.Mehta for the respondents.

CORAM : R. M. LODHA &
J. P. DEVADHAR,JJ.

DATED : 28th April, 2006

P.C.

After the writ petition was filed by the petitioner, on 23rd August, 1990, the Collector of Customs passed the order in original ordering confiscation of the goods covered under the Bill of Entry dated 19th July, 1990. The Collector of Customs gave the petitioner an option to pay fine of Rs.2,00,000/- (Rupees two lacs) in lieu of confiscation and also iomposed penalty of Rs.50,000/-. The petitioner amended the writ petition and thereby has challenged the said order in original also in this writ petition.

2. It is not in dispute that the order in original dated 23rd August, 1990 is appealable before the

Customs, Excise and Service Tax Appellate Tribunal. The appeal is a statutory appeal and in view thereof, we are satisfied that it will be in the fitness of things if liberty is granted to the petitioner to challenge the order in original dated 23rd August, 1990 before the Tribunal. In view thereof, we are satisfied that merits of the diverse contentions raised in the writ petition need not be examined by us.

3. We, accordingly, dispose of the writ petition by the following order:

(i) The order in original dated 23rd August, 1990 may be challenged by the petitioner in appeal under Section 129A of the Customs Act, 1962.

(ii) If the appeal against the order dated 23rd August, 1990 is preferred by the petitioner before the Tribunal within 90 days from today, the appeal shall be treated within time and heard and disposed of by the Tribunal on merits.

(iii) Until the disposal of the appeal by the Tribunal (if the appeal is filed by the petitioner within 90 days from today)

and for a period of 12 weeks therefrom, the Customs Authorities shall not enforce the I.T.C. Bond furnished by the petitioner pursuant to the interim order.

No costs.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)